

STATUS OF CLAIMS

Claims 1-17 and 20 are now pending.

Independent Claims 1 and 4 have been amended.

Dependent Claims 2, 5 and 6 have been amended.

Prior Independent Claim 18, and its dependent Claim 19, have been cancelled without prejudice or disclaimer.

New Independent Claim 20 has been added.

REMARKS

By this Amendment, Applicant has, among other things, edited the Specification and Claims to help distinguish the invention over the prior art. Reconsideration and allowance of the application is respectfully requested.

Applicant noticed that the Drawings contained a few duplicate reference numerals for identical parts. Subject to the Examiner's approval, Applicant has submitted two replacement drawing sheets containing FIGS. 1, 2A, 2B, 3, 5 and 6 to make the Specification easier to follow. These sheets replace two of the three originally submitted. The remaining original sheet, containing FIG. 4, has not been changed nor re-included.

In the First Office Action, Examiner Johnson: allowed Claims 13-17; and, objected to Dependent Claims 6-12 but indicated allowable subject matter. In addition, the Examiner rejected Claims 18-19 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent 4,985,014 to Orejola in view of U.S. Patent 5,439,448 to Leschinsky *et al*; and, rejected Claims 1-5, also under 35 U.S.C. § 103, using various combinations of U.S. Patent 5,360,395 to Utterberg, Leschinsky, and U.S. Patent 6,890,316 to Rawles *et al*.

Applicant wishes to thank the Examiner, not only for allowing certain claims, but also for reciting the Reasons for Allowance for Claims 13-17. That made this Amendment simpler to draft.

In rejecting Independent Claims 1 and 3, Examiner Johnson indicated that certain functional language in their preambles and bodies were being given no patentable weight. Applicant has now amended both Claims 1 and 4 to overcome these deficiencies. Specifically, Applicant has cross-referenced the preambles, in the claim bodies, thereby giving patentable weight to the preambles under M.P.E.P. § 2111.02.

For example, M.P.E.P. § 2111.02, cites "*Jansen v. Rexall Sundown, Inc.*, 342 F.3d 1329, 1333, 68 USPQ2d 1154, 1158 (Fed. Cir. 2003)(In considering the effect of the preamble in a claim directed to a method of treating or preventing pernicious anemia in humans by administering a certain vitamin preparation to 'a human in need thereof,' the court held that the claims' recitation of a patient or a human 'in need' gives life and meaning to the preamble's statement of purpose.)."

In addition, Claims 1 and 4 (as amended) now recite that each recited atrial-arterial shunt for pump-assisted myocardial revascularization without cardiopulmonary bypass includes a vent with "a sealing means for selectively opening and closing the vent for priming the shunt by removing air from the shunt; and a peristaltic pump connected to the shunt tubing." As inferred by the Examiner's Reasons for Allowance, none of the prior art shows the priming feature for that type of shunt.

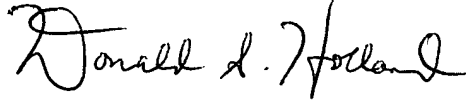
Applicant has also added new Independent Claim 20. It is similar to Claim 13 but eliminates some cumbersome limitations in sub-paragraphs e. and f. to make it harder for an "infringer" to try to avoid liability. Claim 20 contains steps listed in the Reasons for Allowance.

The remaining pending claims are Dependent Claims 2-3 and 5-12. Each of these claims is clearly allowable, as it depends from Independent Claim 1 or 4 discussed above. Each is also self-explanatory, so no further detail is needed.

Applicant believes that its application is now in condition for allowance. If Examiner Johnson, however, believes that further wording is needed to clarify the invention, it is requested

that Examiner Johnson telephone the undersigned to conduct a telephone interview. Otherwise, Applicant requests that a prompt Notice of Allowance be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Donald S. Holland". The signature is fluid and cursive, with the first name "Donald" being the most prominent part.

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